

BEFORE THE  
ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI

**FILED**  
MAY 14 2003  
ADMINISTRATIVE HEARING  
COMMISSION

MISSOURI STATE COMMITTEE  
FOR SOCIAL WORKERS.

Petitioner.

v

MICHAEL L. RICE.

Respondent.

No 03-0038 SW

JOINT MOTION FOR CONSENT ORDER, JOINT STIPULATION OF  
FACTS, WAIVER OF HEARINGS BEFORE THE ADMINISTRATIVE  
HEARING COMMISSION AND STATE COMMITTEE FOR  
SOCIAL WORKERS AND DISCIPLINARY ORDER WITH  
JOINT PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission (1 CSR 15-3.440(3)) and pursuant to the terms of § 536.060, RSMo 2000, as it is made applicable to the Administrative Hearing Commission by § 621.135, RSMo 2000, Michael L. Rice ("Respondent") and the State Committee for Social Workers ("Committee") hereby waive the right to a hearing of the above-styled case before the Administrative Hearing Commission and, additionally, the right to a disciplinary hearing before the Committee pursuant to § 621.110, RSMo, and jointly stipulate to the facts and consent to the imposition of disciplinary action against the clinical social work license of Respondent for violations of statutes and lawful rules and regulations set forth below

Respondent acknowledges that he has received and reviewed a copy of the Complaint filed by the Committee in this case, and the parties submit to the jurisdiction of the Administrative Hearing Commission.

Respondent acknowledges that he is aware of the various rights and privileges afforded him by law, including the right to appear and be represented by counsel: the right to have a copy of the Complaint served upon him by the Administrative Hearing Commission prior to the entering of its order, the right to have all charges against Respondent proven upon the record by competent and substantial evidence; the right to cross-examine any witness appearing at the hearing against Respondent; the right to present evidence on Respondent's own behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against Respondent; and the right to a ruling on questions of law by an administrative hearing commissioner: Being aware of these rights provided the Respondent by operation of law, Respondent knowingly and voluntarily waives each and every one of these rights and freely enters into this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Disciplinary Order with Joint Proposed Findings of Fact and Conclusions of Law ("Joint Stipulation") and agrees to abide by the terms of this document as they pertain to Respondent

Based upon the foregoing, the Committee and Respondent jointly stipulate to the following and request that the Administrative Hearing Commission adopt as its own the Joint Proposed Findings of Fact and the Joint Proposed Conclusions of Law as the Administrative Hearing Commission's Findings of Fact and Conclusions of Law.

JOINT PROPOSED FINDINGS OF FACT

1       The State Committee for Social Workers is an agency of the state of Missouri created and established pursuant to § 337.622, RSMo. for the purpose of executing and enforcing the provisions of §§ 337.600 through 337.639. RSMo.

2       Michael L. Rice ("Respondent") is licensed by the Committee as a licensed clinical social worker, License No. SW002428. Respondent's license was current and active at all times relevant herein until its expiration on September 30, 2002. Respondent's license was renewed on November 4, 2002.

3       On or about June 12, 2002, Respondent pled guilty in the Municipal Court of Jefferson City, Missouri, to driving while his license was revoked, Case No. 0101-005428MT.

4.       On or about July 5, 2002, Respondent pled guilty in the Circuit Court of Greene County, Missouri, to driving while intoxicated and driving while his license was revoked, Case No. 002CM5439.

5       Driving while license is revoked is a crime involving moral turpitude

6.       Driving while intoxicated is a crime involving moral turpitude.

### JOINT PROPOSED CONCLUSIONS OF LAW

7 Cause exists to discipline Respondent's license as a clinical social worker pursuant to § 337.630.2(2), RSMo. which states in relevant part:

2 The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo. against any holder of any license required by sections 337.600 to 337.639 or any person who has failed to renew or has surrendered the person's license for any one or any combination of the following causes.

. . . .

(2) The person has been finally adjudicated and found guilty, or entered a plea of guilty or nolo contendere, in a criminal prosecution pursuant to the laws of any state or of the United States, for any offense reasonably related to the qualifications, functions or duties of a clinical social worker; for any offense an essential element of which is fraud, dishonesty or an act of violence; or for any offense involving moral turpitude, whether or not sentence is imposed;

. . . .

### JOINT AGREED DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Committee for Social Workers in this matter under the authority of § 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

I The clinical social work license, No SW002428, issued to Respondent is hereby SUSPENDED for a period of three years. Imposition of the suspension shall be stayed and the license shall be placed on probation for a period of three years ("disciplinary period") The probation will begin on the effective date of this order. The terms of discipline shall be as follows:

I. GENERAL REQUIREMENTS

- A. During the disciplinary period, Respondent shall comply with all provisions of Chapter 337, RSMo, pertaining to social workers, all the regulations of the Committee; and all state and federal criminal laws. "State" here includes all states and territories of the United States.
- B. During the disciplinary period, Respondent shall keep the Committee informed of Respondent's current work and home telephone numbers and addresses. Respondent shall notify the Committee in writing within ten days of any change in this information.
- C. During the disciplinary period, Respondent shall timely renew his license and timely pay all fees required for licensing and comply with all other Committee requirements necessary to maintain Respondent's license in a current and active state.

- D During the disciplinary period, Respondent shall accept and comply with unannounced visits from the Committee's representatives to monitor his compliance with the terms and conditions of this Joint Stipulation.
- E During the disciplinary period, Respondent shall appear in person for interviews with the Committee or its designee upon request.
- F Periods of residency or the practice of social work outside Missouri will not apply to the reduction of the disciplinary period. Respondent shall notify, in writing, the social work licensing authorities of the jurisdiction in which he is residing or practicing, by no later than the day before the beginning of the disciplinary period, of Respondent's disciplinary status in Missouri. Respondent shall forward a copy of this written notice to the Committee contemporaneously with sending it to the relevant licensing authority. In the event Respondent should leave Missouri to reside or practice social work outside the state during the disciplinary period, Respondent shall notify the Committee in writing of the dates of departure and return no later than ten days before Respondent's departure. Furthermore, Respondent shall, no later than ten days after the commencement of any residence or practice outside this state, notify in writing the social work licensing authorities in the jurisdiction in which Respondent is residing or practicing of Respondent's disciplinary status in Missouri.

G. Respondent shall notify, within 15 days of the effective date of this Joint Stipulation, all facilities where Respondent practices of Respondent's disciplinary status. Notification shall be in writing and Respondent shall, contemporaneously with the giving of such notice, submit a copy of the notice to the Committee for verification by the Committee or its designated representative

H. For purposes of this Joint Stipulation, unless otherwise specified in this Joint Stipulation, all reports, documentation, evaluations, notices, or other materials required to be submitted to the Committee in this Joint Stipulation shall be forwarded to State Committee for Social Workers, 3605 Missouri Boulevard, P.O. Box 1335, Jefferson City, Missouri 65102

## II REQUIREMENTS REGARDING CHEMICAL DEPENDENCY EVALUATION AND TREATMENT

A Within 90 days of the effective date of this Joint Stipulation, Respondent shall undergo a thorough evaluation by a licensed or certified chemical dependency professional approved by the Committee. Respondent shall show this Joint Stipulation to the approved provider conducting the evaluation. Respondent shall accept and abide by all recommendations for treatment, care, and counseling as recommended by this approved provider. If the approved provider recommends care, counseling, and/or treatment with a professional who is not part of the agency, clinic, or practice of the approved provider.

Respondent shall provide the complete evaluation report with recommendations to the designated treatment professional. The approved provider conducting the evaluation shall forward a complete report of the evaluation to the Committee within ten days of completion of said report. The report shall include a description of all tests performed, test results, findings, diagnoses, prognosis, and recommendations for treatment, including the treatment professional recommended for treatment of Respondent.

- B. Pursuant to this Joint Stipulation, Respondent is required to submit to care, counseling, and/or treatment, as recommended by the approved provider, and to abide by any and all practice restrictions recommended in connection with the approved provider's recommended treatment plan.
- C. Respondent shall follow all recommendations for treatment.
- D. Respondent shall furnish a copy of this Joint Stipulation to professional rendering treatment or evaluation pursuant to this Joint Stipulation.
- E. Respondent shall direct the designated treating professional to provide the Committee with follow-up reports on a quarterly basis, with the reports due by December 1, March 1, June 1, and September 1 each year during the disciplinary period. The follow-up reports shall detail Respondent's progress with treatment; Respondent's compliance with all treatment recommendations; any subsequent testing or evaluation performed since the last report, and any



problems identified since the last reports, diagnoses, and prognosis. Respondent shall execute a medical or other appropriate release(s) authorizing the Committee to obtain information and records concerning Respondent's care, counseling, and/or treatment. Respondent shall take whatever steps are necessary to ensure that the required release(s) remain in full force and effect until released from the terms of this Joint Stipulation by the Committee.

F If the treatment of Respondent is successfully completed during the disciplinary period, Respondent shall cause the treating professional to submit a letter of evaluation to the Committee stating that Respondent has successfully completed treatment. The letter shall also outline the recommendations and arrangements for appropriate follow-up or aftercare. Respondent shall follow all recommendations for follow-up or aftercare and shall document compliance with all such recommendations.

G Respondent shall not use alcohol.

### III. REQUIREMENTS REGARDING EDUCATION

During the period of discipline, Respondent, at his own expense, shall complete six clock hours of continuing education in professional ethics in the practice of social work. The continuing education program(s) shall be approved by the Committee prior to Respondent beginning the program(s). Prior to beginning any program, Respondent shall submit documentation to the Committee regarding the institution

through which the program is offered, content of the program, number of clock hours awarded for satisfactory completion of the program and other such documentation as may be requested by the Committee. Failure to complete the required continuing education prior to the end of the period of probation shall be deemed a violation of this Joint Stipulation

#### IV REQUIREMENTS REGARDING PROBATION OR PAROLE STATUS

- A Respondent shall cause a letter from his probation or parole officer to be submitted to the Committee within six weeks of the effective date of this Order.
- B. Respondent shall execute a written release effective for the entire disciplinary period authorizing the probation or parole officer to release records and/or communicate with the Committee, or its representative, regarding Respondent's probation or parole status and compliance. Respondent shall not take any action to cancel this release. Respondent shall take all steps necessary to continue the release in effect and shall provide a new release when requested. Respondent shall provide a copy of the written release to the Committee and the probation or parole officer within ten days of the effective date of this Order.
- C The letter shall indicate Respondent's progress and compliance status with regard to the terms of Respondent's probation or parole

D. The letter shall be sent by the probation or parole officer addressed to: State Committee for Social Workers, 3605 Missouri Boulevard, P O Box 1335, Jefferson City, Missouri 65102.

E. If Respondent successfully completes the period of probation or parole, Respondent shall cause the probation or parole officer to submit a letter to the Committee stating that Respondent has successfully completed the period of probation or parole

F. If Respondent's probation is unsupervised, Respondent shall comply with requirements A through E above by causing a certified copy of the docket sheet indicating Respondent's compliance with the terms of his probation to be sent to the Committee by the clerk of the court

2. The parties to this Joint Stipulation understand that the State Committee for Social Workers will maintain this Joint Stipulation as an open and public record of the Committee as provided in Chapters 337, 610, and 620, RSMo

3. Failure to comply with any of the terms of this Joint Stipulation shall be deemed a violation of the Joint Stipulation and shall be cause for further discipline.

4. Upon the determination of the State Committee for Social Workers that the Respondent has failed to comply with the terms of this Joint Stipulation, the Committee may revoke Respondent's license or may take such other or additional disciplinary action against Respondent or Respondent's license as the Committee deems appropriate. No order shall be

entered by the State Committee for Social Workers pursuant to this paragraph of this consent order without notice and an opportunity for hearing before the Committee in accordance with the provisions of Chapter 536, RSMo

5. Upon the successful completion of the period of discipline, Respondent's license as a social worker in Missouri shall be fully restored if all other requirements of law have been satisfied

6 If the State Committee for Social Workers determines that the Respondent has violated a term or condition of this Joint Stipulation, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the State Committee for Social Workers may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Joint Stipulation in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the State Committee for Social Workers may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held, to determine whether a violation occurred and, if so, it may impose further discipline. The State Committee for Social Workers retains jurisdiction to hold a hearing to determine if a violation of this Joint Stipulation has occurred.

7. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated.

except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought

8. Respondent hereby waives and releases the State Committee for Social Workers, its members and any of its employees, agents, or attorneys, including any former committee members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law deems this Joint Stipulation or any portion thereof void or unenforceable.

In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee for Social Workers, and Disciplinary Order and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by Petitioner in the above-styled action

RESPONDENT

Michael L. Rice

Date

5/5/03

PETITIONER

Ken Bishop

Executive Director

Date

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